## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MICHAEL DONNELLE O'GARRA,		
	)	
Petitioner,	)	
	)	1:15CV576
V.	)	1:14CR71-1
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	
±	•	

## ORDER

This matter is before this court for review of the Memorandum Opinion and Recommendation filed on April 29, 2016, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 54.) In the Recommendation, the Magistrate Judge recommends that Petitioner's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (Doc. 43) be denied without issuance of a certificate of appealability. The Recommendation was served on the parties to this action on

April 29, 2016 (Doc. 55). Petitioner timely filed objections (Doc. 56) to the Recommendation.

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's

Recommendation (Doc. 54) is ADOPTED. IT IS FURTHER ORDERED that

Petitioner's Motion to Vacate, Set Aside, or Correct Sentence

¹ At the conclusion of his objection, "Petitioner further request[ed] the court hold [a] hearing if necessary on the merits considering the return of 'all' property to the [P]etitioner seized by the United States Secret Service as an order of the court." (Doc. 56 at 12.) Post-conviction requests for return of property may proceed only as civil actions, subject to filing fee requirements, including the Prison Litigation Reform Act (codified in pertinent part at 28 U.S.C. § 1915(b)(1)). See United States v. Jones, 215 F.3d 467 (4th Cir. 2000).

(Doc. 43) is **DENIED** and that this action is dismissed with prejudice. A Judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 28th day of June, 2016.

United States District Judge